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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION  
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16 Case No. c 07-05152-JW

17 \_\_\_\_\_ )  
IN RE APPLE & AT&TM )  
18 ANTI-TRUST LITIGATION )  
19 )  
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DECLARATION OF H. TIM HOFFMAN  
IN SUPPORT OF MOTION TO  
APPOINT MAX FOLKENFLIK AS  
LEAD COUNSEL FOR PLAINTIFFS  
AND THE PUTATIVE CLASS

Hearing Date: April 7, 2008

Time: 9:00 a.m.

Hearing Judge: Hon. James Ware  
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27 DECLARATION OF H. TIM HOFFMAN IN SUPPORT OF MOTION TO APPOINT MAX FOLKENFLIK AS LEAD COUNSEL  
FOR PLAINTIFFS AND THE PUTATIVE CLASS  
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1 I, H. TIM HOFFMAN, declare:

2 1. I am an attorney licensed to practice law in the state of California and am a partner  
3 at Hoffman & Lazear, attorneys of record for plaintiffs Paul Holman and Lucy Rivello, in  
4 Holman and Rivello, et al. v. Apple, Inc., AT&T Mobility LLC., (No. 07-CV-05152-JW),  
5 one of the three related cases in the above-captioned matter. I submit this declaration in  
6 support of the Motion to Appoint Max Folkenflik as Lead Counsel for the plaintiffs and  
7 putative class.

8 2. Our firm has associated with the law firm of Folkenflik and McGerity in the Holman  
9 matter.

10 3. I have also been associated with Mr. Folkenflik and his firm in several other cases. I  
11 met him when we each represented different objectors who had opposed a proposed  
12 settlement in Hoffman v. American Express, a complex consumer class action in  
13 California Superior Court in Alameda County. Mr. Folkenflik was appointed lead counsel  
14 for the objectors and, following the disapproval of the proposed settlement, has acted as  
15 lead counsel for the plaintiff class.

16 4. I have worked with Mr. Folkenflik for several years in the Hoffman litigation.  
17 Throughout that time, he has proven himself to be extremely knowledgeable and  
18 hard-working. He has shown excellent judgment. He has also demonstrated an  
19 extraordinary ability to lead co-counsel, as well as to get along cooperatively with  
20 opposing counsel.

21 5. I have been a practicing litigation attorney since 1965. I graduated from the  
22 University of Illinois Law School. I was admitted to practice in the State of Illinois in  
23 1965 and in California in 1971. I have been in private practice in California since 1972.

24 6. Other work in the instant litigation is performed by my partner, Arthur W. Lazear,  
25 and my associate, Morgan M. Mack. Mr. Lazear graduated from the University of  
26 California, Berkeley Law School (Boalt Hall), and has been a litigation attorney,

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1 specializing in complex matters and class litigation since 1978. He is admitted to practice  
2 in state and federal courts in California. Mr. Mack graduated from the University of  
3 California, Hastings College of the Law, and has been a litigation attorney, specializing in  
4 class actions since 2001. He is admitted to practice in state and federal courts in  
5 California.

6 7. Over the past three decades, my firm and I have been involved in a substantial  
7 amount of complex litigation, including numerous class actions and complex litigation.  
8 Among the cases in which we have been involved are:

9 a. Kahle v. Pacific Telesis Group, a class action for unpaid overtime compensation,  
10 which resulted in a substantial settlement for a class of over six hundred employees.

11 b. Kelly v. Pacific Telesis Group, an action in which a class of over 1000 employees  
12 was certified on a claim for unpaid overtime compensation resulting in an approved  
13 settlement of 35 million dollars.

14 c. McLendon v. Continental Can Company, an ERISA action where Hoffman &  
15 Lazear acted as one of three firms serving as trial counsel to a nationwide class that  
16 resulted in a verdict for Plaintiffs and damages settlement of approximately \$415 million.

17 d. Terones v. Pacific States Steel, another class action under ERISA, which resulted  
18 in the recovery of pension and medical benefits worth tens of millions of dollars.

19 e. Phemister v. Harcourt Brace Jovanovich, a nationwide antitrust class action in  
20 which we represented a class of approximately 40,000 attorneys and achieved an approved  
21 settlement.

22 f. Amaro v. Continental Can Company, another ERISA action where we were sole  
23 counsel for the plaintiff class and obtained for the plaintiffs a verdict and a damages  
24 settlement of \$7 million.

25 g. Cordoza v. Pacific States Steel Corp., an ERISA class action in the Northern  
26 District of California which resulted in our obtaining broad injunctive relief and fashioning

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1 a unique remedy to provide millions of dollars in medical benefits for class members.

2 h. ACORN v. Household International, a consumer class action alleging predatory  
3 lending practices that resulted in a large, complex settlement on behalf of a nationwide  
4 class of borrowers.

5 i. Roberts v. Best Buy, an action with a certified class of assistant managers that produced  
6 a settlement of 13.75 million dollars for the class.

7 8. I have served as lead counsel, co-lead counsel or liaison counsel in several cases,  
8 including Chu v. Wells Fargo Home Mortgage, where my firm has been appointed sole  
9 lead counsel, Hoffman v. American Express, where I served as liaison counsel, Mervorah  
10 v. Wells Fargo Investments, where our firm is lead counsel for a class of California  
11 employees and ACORN v. Household International, where our firm served on the  
12 executive committee for class counsel. I also have extensive experience trying cases  
13 before juries.

14 9. If Mr. Folkenflik is appointed lead counsel in this matter, I will work closely with him  
15 on behalf of the plaintiffs and the purported class, as we have in the past, and I know from  
16 experience that we can work together productively.

17 I declare under penalty of perjury under the laws of the State of California that the  
18 foregoing is true and correct. Executed this 3rd day of March, 2008 at Oakland,  
19 California.

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21 /s/ H. Tim Hoffman  
22 H. Tim Hoffman  
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